

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

### NOTICE OF EMERGENCY RULEMAKING

[Register Issue: 3/30/2012 Vol 59/13](#)

The Director of the Department of Consumer and Regulatory Affairs, pursuant to sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.04 (2011 Supp.) and D.C. Official Code 2-1801.05 (2007 Repl.)); Mayor's Order 86-38, dated March 4, 1986; D.C. Official Code § 29-101.06 (2011 Repl.); and Mayor's Order 2011-178, dated October 25, 2011, hereby gives notice of the adoption, on an emergency basis, of the following amendments to section 3302 (Corporations Division Infractions) of chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions) of title 16 (Consumers, Commercial Practices and Civil Infractions) of the District of Columbia Municipal Regulations.

This emergency rulemaking is necessary to maintain the implementation of the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July 2, 2011 (D.C. Law 18-378; D.C. Official Code §§ 29-101.01, *et seq.* (2011 Repl.)) (the Act) by preserving the schedule of fines for civil infractions arising thereunder. The Act became applicable on January 1, 2012. A previous notice of emergency and proposed rulemaking setting the filing fees was published in the *D.C. Register* on December 16, 2011 (58 DCR 10729). Pursuant to D.C. Official Code § 29-102.12 (2011 Repl.), the proposed rulemaking will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review.

This emergency rulemaking was adopted on March 19, 2012, and will become effective on April 6, 2012. This emergency rulemaking will remain in effect for up to one hundred twenty (120 days); expiring on July 18, 2012, unless earlier superseded by a notice of final rulemaking.

**Chapter 33 (Department of Consumer and Regulatory Affairs (DCRA) Infractions) of title 16 (Consumers, Commercial Practices and Civil Infractions) of the District of Columbia Municipal Regulations is amended as follows:**

**Section 3302 (Corporation Division Infractions) is amended to read as follows:**

#### **3302 CORPORATIONS DIVISION INFRACTIONS**

3302.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Submits a document pursuant to the District of Columbia Official Code Title 29 (Business Organizations) Enactment Act of 2010, effective July 11, 2011 (D.C. Law 18-378; D.C. Official Code §§ 29-101.01, *et seq.*) (the Act) and the document contains a false statement;
- (b) Operating in the District:

- (1) As a domestic business corporation or professional corporation and without articles of incorporation filed under D.C. Official Code § 29-302.02 (2011 Repl.);
  - (2) As a domestic nonprofit corporation and without articles of incorporation filed under D.C. Official Code § 29-402.02 (2011 Repl.);
  - (3) As a domestic limited liability partnership and without a statement of qualification filed under D.C. Official Code § 29-610.01 (2011 Repl.);
  - (4) As a domestic limited partnership and without a certificate of limited partnership filed under D.C. Official Code § 29-702.01 (2011 Repl.);
  - (5) As a domestic limited liability company and without a certificate of organization filed under D.C. Official Code § 29-802.01 (2011 Repl.);
  - (6) As a domestic general cooperative association and without articles of incorporation filed under D.C. Official Code § 29-906 (2011 Repl.);
  - (7) As a domestic limited cooperative association and without articles of organization filed under D.C. Official Code § 29-1003.02 (2011 Repl.); or
  - (8) As a domestic statutory trust and without a certificate of trust filed under D.C. Official Code § 29-1202.01 (2011 Repl.);
- (c) Operating in the District as a foreign filing business organization entity:
- (1) Without having obtained a certificate of registration under D.C. Official Code § 29-105.02 (2011 Repl.); or
  - (2) After its certificate of registration has been terminated under D.C. Official Code § 29-105.11 (2011 Repl.); and
- (d) Operating in the District under the jurisdiction of the Act, but after the business organization has been dissolved, whether voluntarily, judicially, or administratively; provided, that this subsection shall not apply if the dissolution has been revoked or the business organization has been reinstated in accordance with the Act.

- (a) Failure to appoint and maintain a registered agent under D.C. Official Code § 29-104.02 (2011 Repl.):
  - (1) As a domestic filing entity;
  - (2) As a domestic limited liability partnership that does not maintain a place of business in the District; or
  - (3) As a qualified foreign entity; and
- (b) Failure to register a trade name with the Department of Consumer and Regulatory Affairs under D.C. Official Code § 47-2855.02 (2005 Repl.):
  - (1) As a general partnership;
  - (2) As a foreign or domestic limited partnership;
  - (3) As a foreign or domestic limited liability company; or
  - (4) As a foreign or domestic corporation.